

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 2666 (JNE/FLN)

This Document Relates to:

ALL ACTIONS

**STIPULATED MODIFICATION TO
SCHEDULING ORDER FOR THE
BELLWEATHERS SECOND**

The Court entered Pretrial Order No. 25 on April 4, 2018, setting forth the schedule for the Bellwethers Second. Since that time, the parties have been diligently pursuing discovery. There have been unexpected difficulties, however, in obtaining medical records and scheduling plaintiff and treating physician depositions for the two joint nominees (*Axline* and *Hives*). The parties are thus in agreement that good cause exists to modify the schedule for the Bellwethers Second, and respectfully request that Pretrial Order No. 25 be modified as follows:¹

1. Case-specific fact discovery opens on April 4, 2018

a. The Bellwethers Second are these cases:

Joint Nominees

17-cv-511 (*Nancy Axline v. 3M Co.*)

17-cv-1696 (*Laura Hives v. 3M Co.*)

Plaintiffs' Nominees

16-cv-2144 (*Pearlie Partlow v. 3M Co.*)

16-cv-4159 (*Ada Trombley v. 3M Co.*)

17-cv-459 (*Terry Arnold v. 3M Co.*)

¹ The amended discovery deadlines and dispositive motion filing deadline proposed herein are consistent with those suggested by Magistrate Judge Noel, as set forth in the Minute Entry (ECF No. 1310) regarding the June 27, 2018 telephone conference with the Court.

Defendants' Nominees

17-cv-1078 (*Julio Ramirez v. 3M Co.*)

17-cv-3056 (*Ruth Goodpaster v. 3M Co.*)

17-cv-3068 (*David Henderson v. 3M Co.*)

b. For Joint Nominees, case-specific fact discovery closes on August 1, 2018.

c. For Plaintiffs' and Defendants' Nominees, case-specific fact discovery closes on September 1, 2018. As to these Nominees, depositions may not be taken unless the parties agree or the Court grants leave to do so.

d. For treater depositions, each side may use half of the total time set aside for a deposition. Neither party may use the other's unused time.

2. By April 13, 2018, the parties must tell the Court the sequence of their nominated cases. Defendants will select cases 3, 6 and 7; Plaintiffs will select cases 4, 5 and 8.

3. For case-specific issues in the Bellwethers Second, the parties must make initial disclosures under Rule 26(a)(1) by April 17, 2018.

4. For expert testimony about specific causation in the Joint Nominees,

a. Initial expert reports and disclosures of the identity of expert witnesses under Rule 26(a)(2) must be exchanged by August 10, 2018.

b. Rebuttal expert reports and disclosures of the identify of rebuttal expert witnesses must be exchanged by August 31, 2018.

c. Depositions of expert witnesses must be completed by October 2, 2018.

d. If an expert witness has testified about general causation, a party deposing that expert witness may not explore general causation unless as incidental to a specific causation inquiry.

5. For case-specific Daubert and dispositive motions in the Joint Nominees,

a. Case-specific Daubert dispositive motions must be filed by October 8, 2018.

b. Responses to case-specific Daubert and dispositive motions must be filed by October 22, 2018.

c. Reply briefs in support of case-specific Daubert and dispositive motions must be filed by November 1, 2018.

6. A Joint Nominee must be trial-ready on December 3, 2018. By September 5, 2018, the parties must propose:

a. Which Joint Nominee will be trial-ready on December 3, and

b. When the other Joint Nominee will be trial-ready.

Dated: July 3, 2018

Respectfully submitted:

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